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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

DALE L. ENGLER, JR.,) Case No. 2:09-cv-05046-RHW
)
Plaintiff,) **AMENDED COMPLAINT FOR**
) **VIOLATIONS OF THE FAIR DEBT**
vs.) **COLLECTION PRACTICES ACT**
) **AND INVASION OF PRIVACY**
ASSET & CAPITAL)
MANAGEMENT GROUP, AKA)
WESTERN CAPITAL GROUP,
AKA ASSET MANAGEMENT, AKA)
WCG, AND THAI HAN)
)
Defendants.)

I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive,

1 deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of
2 privacy by intrusion, ancillary to Defendants' collection efforts.
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4 **II. JURISDICTION**

5 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).
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7 **III. PARTIES**

8 3. Plaintiff, Dale L. Engles, Jr., is a natural person residing in the State of
9 Washington, County of Benton, and City of Kennewick.
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11 4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. §
12 1692a(3), and a "debtor" as defined by RCW § 19.16.100(11).
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14 5. At all relevant times herein, Defendants were companies engaged, by
15 use of the mails and telephone, in the business of attempting to collect a "debt"
16 from Plaintiff, as defined by 15 U.S.C. §1692a(5). Upon information and belief,
17 Asset and Capital Management Group ("ACMG") is the only entity name that is
18 registered with a governmental entity. The names of the other Defendants were
19 taken from online reports from consumers who have received calls from the same
20 phone numbers that ACMG is reported to use. Upon information and belief,
21 these names include Western Capital Group ("WC Group"), Asset Management
22 ("AM"), and WCG. Thai Han, according to several sources, is the reputed owner
23 of a single debt collection organization that encompasses these several titles. The
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primary basis for Plaintiff's belief that the organizations are merely different names for the same single entity is that each agency is known to use the same telephone numbers. Also, only one of the entity names is registered with a State as a business entity, making it appear as though the other names are not actually separate businesses, but are merely pseudonyms whose purpose is to make it more difficult for consumers and regulators to hold ACMG accountable.

6. Each Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a "licensee," as defined by RCW § 19.16.100(9).

IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendants contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendants' conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

- a. Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5));
- b. Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including threatening Plaintiffs son that his father would have to go to court about a debt (§ 1692e(5));
- c. Falsely representing the character, amount, or legal status of Plaintiffs debt, including representing that Plaintiff owes a debt that belongs to his father, Dale Engles, Sr. (§ 1692e(2)(A));

- d. In connection with collection of a debt, using language the natural consequence of which was to abuse Plaintiff, including informing Plaintiff's wife that they were legally required to give Defendants contact information for Dale Engles, Sr. (§ 1692d(2));
- e. Using unfair or unconscionable means against Plaintiff in connection with an attempt to collect a debt, including moving the location of Defendant Asset and Capital Management Group's collection office without updating the address with the Washington Secretary of State, thereby attempting to evade service by potential FDCPA Plaintiffs (§ 1692f)).

8. Defendants' aforementioned activities, set out in paragraph 8, also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. With respect to the setting that was the target of Defendants' intrusions, Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.

9. As a result of Defendants' behavior, detailed above, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully prays that judgment be entered
3
4 against the Defendants for the following:

- 5 A. Declaratory judgment that Defendants' conduct
6 violated the FDCPA;
7 B. Actual damages;
8 C. Statutory damages;
9 D. Costs and reasonable attorney's fees; and,
10 E. For such other and further relief as may be just and proper.
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12 **COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY**

13 **ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON**

14 **CONSUMER PROTECTION ACT**

- 15
16 11. Plaintiff reincorporates by reference all of the preceding paragraphs.
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18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff respectfully prays that judgment be entered
20 against Defendants for the following:

- 21 A. Actual damages;
22 B. Discretionary Treble Damages;
23 C. Costs and reasonable attorney's fees,
24 D. For such other and further relief as may be just and proper.
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1 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

2 12. Plaintiff reincorporates by reference all of the preceding paragraphs.

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4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays that judgment be entered
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7 against the for the following:

- 8 A. Actual damages
9 B. Punitive Damages; and,
10 C. For such other and further relief as may be just and proper.
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13 Respectfully submitted this 1st day of September, 2009.
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16 s/Jon N. Robbins
17 Jon N. Robbins
18 WEISBERG & MEYERS, LLC
19 Attorney for Plaintiff
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